

House File 597 - Introduced

HOUSE FILE 597

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 376)

A BILL FOR

1 An Act providing for the distribution and sale of motor fuel,
2 including blended and unblended gasoline and diesel fuel,
3 providing for liability, and including penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 214A.1, Code 2013, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 8A. "*Distributor*" means the same as defined
4 in section 452A.2.

5 NEW SUBSECTION. 23A. "*Supplier*" means the same as defined
6 in section 452A.2.

7 Sec. 2. Section 214A.20, subsection 1, unnumbered paragraph
8 1, Code 2013, is amended to read as follows:

9 A supplier, distributor, or retail dealer is not liable for
10 damages caused by the use of incompatible motor fuel dispensed
11 at the retail dealer's retail motor fuel site, if all of the
12 following applies:

13 Sec. 3. Section 452A.2, Code 2013, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 9A. "*Diesel fuel*" or "*diesel*" means diesel
16 fuel as defined in section 214A.1.

17 NEW SUBSECTION. 28A. "*Nonrefiner biofuel manufacturer*"
18 means an entity that produces, manufactures, or refines biofuel
19 and does not directly or through a related entity refine,
20 blend, import, or produce gasoline or diesel fuel as a motor
21 fuel.

22 Sec. 4. NEW SECTION. 452A.6A **Right of distributors and**
23 **dealers to blend gasoline or diesel fuel using a biofuel.**

24 1. a. A dealer or distributor may blend gasoline or
25 diesel fuel using the appropriate biofuel or sell unblended or
26 blended gasoline or diesel fuel on any premises in this state
27 notwithstanding any contrary agreement pursuant to which a
28 terminal operator, terminal owner, or supplier is a party and
29 the distributor or dealer is the other party.

30 b. Paragraph "a" does not apply to the extent that the use
31 of the premises is restricted by federal, state, or local law.

32 2. A terminal operator, terminal owner, or supplier who in
33 the ordinary course of business sells or transports gasoline
34 or diesel fuel which is unblended or blended with a biofuel
35 shall not refuse to sell or transport any unblended gasoline

1 or unblended diesel fuel to a distributor or dealer based on
2 the distributor's or dealer's intent to blend the gasoline or
3 diesel fuel with a biofuel.

4 3. A terminal operator, terminal owner, or supplier shall
5 not prevent or inhibit a distributor or dealer from being a
6 blender or from qualifying for any federal or state tax credit
7 offered to blenders.

8 4. This section shall not be construed to do any of the
9 following:

10 a. Prohibit a distributor or dealer from purchasing,
11 selling, or transporting gasoline or diesel fuel that has not
12 been blended with a biofuel.

13 b. Affect the blender's license requirements under section
14 452A.6.

15 c. Prohibit a dealer or distributor from leaving a terminal
16 with unblended gasoline or unblended diesel fuel.

17 d. Require a nonrefiner biofuel manufacturer to offer or
18 sell unblended gasoline or unblended diesel fuel.

19 5. A terminal operator, terminal owner, or supplier who
20 violates this section is subject to a civil penalty of not
21 more than ten thousand dollars per violation. Each day that a
22 violation continues is deemed a separate offense.

23 Sec. 5. VALIDITY OF AGREEMENTS.

24 1. Section 452A.6A, as enacted in this Act, does not apply
25 to a written agreement executed prior to the effective date
26 of this Act between a dealer or distributor and a terminal
27 operator, terminal owner, or supplier.

28 2. Section 452A.6A, as enacted in this Act, does apply to
29 a written agreement executed on or after the effective date
30 of this Act between a dealer or distributor and a terminal
31 operator, terminal owner, or supplier, or any other kind of
32 agreement made by those parties on or after the effective date
33 of this Act. Any term or condition in such agreement which is
34 contrary to the provisions of section 452A.6A, as enacted in
35 this Act, shall be null and void.

1 EXPLANATION

2 GENERAL. This bill provides for the distribution and sale of
3 motor fuel by terminals, suppliers, distributors, and retail
4 dealers. Motor fuel (e.g., gasoline) and special fuel (e.g.,
5 diesel fuel) move into this state via a pipeline or marine
6 vessel to a terminal where in turn the fuel is withdrawn by a
7 supplier and then purchased and transported by a distributor
8 and ultimately a dealer who sells the fuel at retail.

9 LIABILITY PROTECTION. In 2011, the general assembly
10 enacted SF 531, which provided that a retail dealer is not
11 liable for damages caused by the use of incompatible motor
12 fuel dispensed at the retail dealer's motor fuel site under
13 certain conditions. The incompatible motor fuel must comply
14 with the specifications for that type of motor fuel, it must
15 be selected by a person other than the retail dealer, and it
16 must be dispensed from a motor fuel pump that correctly labels
17 the type of fuel dispensed (Code section 214A.20). This bill
18 extends such protection against liability to suppliers and
19 distributors.

20 RESTRICTIONS UPON SALE AND DISTRIBUTION OF BLENDED AND
21 UNBLENDED MOTOR FUEL. Gasoline may be blended with alcohol
22 (ethanol) and diesel fuel may be blended with soybean oil
23 (biodiesel) at a nonterminal location by a person referred to
24 as a blender. Both ethanol and biodiesel are referred to as
25 biofuel (Code sections 214A.1 and 452A.2). The bill provides
26 that a dealer or distributor may blend gasoline or diesel fuel
27 using the appropriate biofuel or sell unblended or blended
28 gasoline or diesel fuel on any premises in this state so long
29 as the premises is not restricted by federal, state, or local
30 law. The bill provides that a terminal operator, terminal
31 owner, or supplier who in the ordinary course of business sells
32 or transports gasoline or diesel fuel which is unblended or
33 blended with a biofuel cannot refuse to sell or transport any
34 unblended gasoline or unblended diesel fuel to a distributor
35 or dealer based on the distributor's or dealer's intent to

1 blend the gasoline or diesel fuel with a biofuel. A terminal
2 operator, terminal owner, or supplier also cannot prevent a
3 distributor or dealer from being a blender or from qualifying
4 for any federal or state tax credit offered to blenders.

5 The bill provides that its provisions do not prohibit a
6 distributor or dealer from purchasing, selling, or transporting
7 gasoline or diesel fuel that has not been blended with a
8 biofuel; affect the blender's license requirements, prohibit a
9 dealer or distributor from leaving a terminal with unblended
10 gasoline or unblended diesel fuel; or require a nonrefiner
11 biofuel manufacturer to offer or sell unblended gasoline or
12 unblended diesel fuel. The requirements also do not apply to a
13 written agreement executed prior to the effective date of the
14 bill.

15 A terminal operator, terminal owner, or supplier who
16 violates the bill's restrictions is subject to a civil penalty
17 of not more than \$10,000 per violation, and each day that a
18 violation continues is deemed a separate offense.